

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 245 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PANDIT LAXMIPRASAD KIRPARAM

Versus

RANA CHUNILAL MASUKHLAL

Appearance:

MR PRADYUMAN B BHATT for Petitioner

MR AS KOTHARI for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 17/03/97

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. A.S. Kothari,
learned advocate for the respondent.

2. Heard. The respondent (original plaintiff) filed Civil Suit No. 23 of 1980 in the Court of the Civil Judge (J.D.) at Santrampur for obtaining possession of the suit premises and mesne profits inter-alia on the ground that

the suit premises were not used for the purpose for which the same were let for a period of more than six months immediately preceding the date of the suit.

3. After appreciating the evidence adduced the learned trial Judge by his judgment and order dated 7/5/1988 decreed the plaintiff's suit for eviction. The petitioner-tenant carried the matter in Regular Civil Appeal No. 56 of 1988 in the court of the 3rd Extra Asistant Judge, Godhra, who by his judgment and order dated 6/1/1997 confirmed the decree for eviction and dismissed the petitioner's appeal. That is how the petitioner is before this Court u/S. 29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act (for short 'the Rent Act').

4. I have heard the learned advocates for the parties. I am satisfied that both the Courts below have rightly concluded about the non-user of the premises by the petitioner and the consequent decree for eviction. However, the petitioner, who is present before this Court, expresses that he might be granted time to vacate the suit premises for a period of three years in order to enable him to switch over his affairs to the other premises. Having heard the learned advocates on this request, I am of the opinion that the ends of justice would be served if petitioner is granted time upto 30/9/1999 on following conditions :-

In the result, the petitioner is granted time to vacate the suit premises upto 30/9/1999 on condition that the petitioner files usual undertaking before this Court within one week from today inter-alia stating therein that (i) he will pay or deposit the mesne profits without any default, in the trial Court, (ii) he will not transfer or assign in any manner the suit premises to any one, and (iii) he shall hand over peaceful and vacant possession to the respondent on or before 30/9/1999.

Rule made partly absolute in the aforesaid terms only. No order as to cost. D.S.P. today.

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